

STATEMENT OF TRACY BARKER TO THE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

Hearing on the Enforcement of Federal Criminal Law to Protect Americans
Working for U.S. Contractors in Iraq, December 19, 2007

In July 2004, I began working for KBR/Halliburton in the Procurement Department located in the Green Zone in Basra, Iraq. While under the direct supervision of Crystal Daniels and Byron Marcee, I was exposed to physical threats, verbal abuse, and sexually explicit conversations on a daily basis. Several other employees and I lodged numerous complaints through the Halliburton Dispute Resolution Program ("HDRP") and by calling a toll free number which connected us to human resources in Houston, TX. Nothing was done to resolve the sexually hostile work environment or investigate the complaints.

Despite the promise of confidentiality under the HDRP, Kara Hall, a human resources supervisor, received several of my complaints and forwarded them to Marcee and Daniels. As a result, Daniels and Marcee retaliated against me by escalating the abusive behavior and screaming at me for filing the formal complaints with human resources. After filing yet another complaint, Wesley Lane, a human resources supervisor, called me in to her office and informed me that Daniels and Marcee had filed a report complaining of my job performance. While in Hall's office, I was not permitted to leave or call anyone. Lane followed me into the bathroom and watched me as I urinated. When I asked her why she was doing this she said it was to keep me from calling Houston again, or anyone else, to report the abuse. Hall then instructed me to return to my living container and remain there for three days, I was not permitted to speak with anyone, and if I was seen outside, I would be fired. After three days of confinement, I returned to work under the direct supervision of Daniels and Marcee and the abuse and hostile work environment escalated yet again until I was forced out of that position in November of 2004. I worked in billeting in Baghdad for a short time.

In March of 2005, I was transferred to the Basra military base to work in billeting. When I arrived there were men lined up outside waiting to take a look at me. I asked what was going on and one responded that they had heard I was attractive and wanted to see me themselves. I was assigned to a shared office space with Sherman Richardson. Richardson had hung pictures of prostitutes and animals having sex with one other on his office walls and he often talked about how he took his *Rest and Relaxation* time in Thailand where he would hire prostitutes. Other male employees would visit Richardson in the office to seek information on how to obtain a prostitute while on R&R.

Although I complained of the sexually hostile conditions to my direct supervisor and camp manager, Craig Grabien, nothing was done to remedy the situation. Because there was no human resource personnel at the Basra Camp, Grabien was the only one to report the abuse to and he soon became the primary culprit- Grabien himself began to sexually harass me on a daily basis by insisting that I sleep with him because he was

camp manager and he could provide benefits in exchange for sexual favors. Grabien had a reputation for sexually harassing women and it was a motto of the Basra Camp that "what happens in Basra, stays in Basra." (*See Plaintiff's Exhibit 1*) In March 2005, I filed a complaint through the HDRP by calling the toll free number to Houston and was told by a human resources supervisor that if a position opened up in Camp Freedom I could transfer out of Basra, but again, nothing was done.

During this same month I returned to the U.S. for a family medical emergency for approximately two weeks. When I returned to the Basra camp, I discovered Richardson had searched through my room and items were missing. Again, I filed a complaint with Grabien and nothing was done. Instead, Grabien increased his sexual advances and began knocking on my door late in the evening asking that I sleep with him. One evening he stopped by with one other man and asked "are you going to let us see your tits?"

On June 23, 2005, I accompanied U.S. Department of State employee, Ali Mokhtare, to his living quarters to complete a work order for an alleged faulty air conditioner and to discuss employment opportunities within the U.S. State Dept. Once we arrived, Mokhtare said the air conditioner was working fine. I immediately felt uncomfortable expressed that I was going to go home. Mokhtare said he wanted to explain the war to me and a story about a "Filipino woman." As Mokhtare began to talk about the war, he poured two drinks of Jack Daniels and Coke and offered me one. I declined but eventually took the drink in my hand anyway. Mokhtare then began to talk about a Filipino woman in Saudi Arabia who was repeatedly raped by a prince, and although she reported it to the police, no one believed her and the prince continued to rape her. Finally, the woman became so distraught she committed suicide by jumping out of a window. In the midst of telling this story, Mokhtare grabbed my breasts and tried to kiss me on the mouth. I screamed "No!" and escaped Mokhtare's hold and began to run toward the door. Mokhtare grabbed hold of me again, put his hands around my throat and tried to force his lips on my mouth and against the back of my hand; I pushed him away, escaped his hold, and ran from the living quarters. Mokhtare followed after me screaming in Arabic as I ran in the direction of my living quarters.

I immediately reported the incident to Grabien, who contacted the U.S. State Department Diplomatic Security to investigate the incident. The next day I gave Brian Hathaway, a D.S. agent, a written statement depicting the attack. I was instructed to stay in my living container until further notice. I asked Hathaway if I could have protection because I was concerned for my safety and he and Grabien told me "to just avoid Mokhtare."

On June 25, 2005, agent Paul H. Davies and Brian Hathaway interviewed Mokhtare. (*See Exhibit A*). In the report, the notes indicate Mokhtare was uncooperative from the beginning; he refused to sign the Garrety Warnings and stated he wanted an attorney before he would speak with the agents. Before he left, the agents instructed Mokhtare not have any verbal or physical contact with me. Approximately one hour later he returned and agreed to sign the Garrety Warnings and answer questions.

During the interview, Mokhtare admitted to the agents he inappropriately grabbed my breast and attempted to kiss me. He also admitted to telling me the story of a Filipino woman who was raped by a prince in Saudi Arabia. Mokhtare's story was exactly as I had explained to agent Hathaway, he even goes so far as to admit his actions were "inappropriate" and he "made a mistake." According to the agents' notes, when they confronted him about an inconsistent statement he made regarding his alcohol consumption he became agitated and angry.

On June 27, 2005, Hathaway and Grabien interviewed me pursuant to the investigation of the attack by Ali. I was ordered to bring the clothes I was wearing the night of the attack. Once I arrived, Hathaway took pictures of the clothing. After the interview was concluded, I was ordered to return to work the following day wearing the same outfit so that Hathaway could determine whether it was sexually provocative to men. I returned to work and began to experience symptoms of post traumatic stress disorder. I requested a medical leave from Grabien and he refused. I suffered from severe symptoms of PTSD for two weeks until I was able to seek medical attention and a medical leave to return home.

I finally returned to the United States in September 2005 on a medical leave. In the months that followed, U.S. Diplomatic Security Agent, Lyn Falanga began investigating the case and telephoned on several occasions. During the calls, Falanga revealed that the investigation was ongoing and it would be presented to a U.S. Attorney's Office in Virginia, she also stated Mokhtare was interviewed and caught in a lie. However, on October 6, 2005 the case was declined for prosecution by the Eastern District of Virginia U.S. Attorney's office. (*See Exhibit B*). Even more astonishing is the fact that the State Department failed to discipline Mokhtare for his actions. (*See Exhibit C*).

I never received a phone call, letter or any type correspondence informing me of the decision not to prosecute nor was I provided an explanation. I called agent Falanga who eventually said the case was declined for prosecution and refused to provide any further information.

In January of 2007, my attorney Stephanie Morris contacted agent Falanga and was directed to speak with U.S. DOS Attorney Jenna Lapinski. Lapinski refused to provide any information other than the case was declined for prosecution. She would not reveal the DOJ office that officially declined prosecution nor did she provide an explanation of why I was never contacted by the prosecution for any information or input I could provide in the investigation.¹

On February 20, 2007, my attorney filed a complaint with the Department of Justice Victims' Rights Office for violating my rights as a federal crime victim. On March 2, 2007 I received a response from the Victims' Rights Ombudsman stating the office was closing my complaint without further action because the office did not have

¹ I discovered the case was declined for prosecution by the EDVA US Attorneys' Office in October 2005 after receiving the attached documents in response to a FOIA request.

jurisdiction to review complaints “brought against employees of the State Department,” because I was not a crime victim of a “*Federal*” offense, and because I failed to identify any U.S. Department of Justice employee who violated her rights. (*See Exhibit D*).

On August 16, 2007, the EEOC made a final determination and found “sufficient evidence to establish that [I] acted in good faith when [I] raised complaints of sexual harassment and that [Halliburton/KBR’s] agents impermissibly tried to discourage [me] from making and pursuing [my] complaints about [Halliburton/KBR] employees and the State Department employee. (*See Exhibit E*).

In short, when I initially arrived in Iraq I was exposed to a sexually hostile, physically threatening and verbally abusive environment. Although I reported the violations properly under the HDRP, I was retaliated against and lost my job. I was eventually transferred to a dangerous and extremely hostile camp where I endured extreme sexually hostile conditions by my immediate supervisor and was attacked by a State Department employee. Due to the lawlessness that exists in Iraq I have not had a proper opportunity to seek justice in the criminal or civil arena. The U.S. Department of Justice has refused to prosecute Ali Mohktare for the attack and the Halliburton/KBR arbitration provision is an attempt to keep me from exploiting the oppressive conditions women confront in Iraq.

AFFIDAVIT OF LETTY SURMAN

STATE OF TEXAS §
COUNTY OF HARRIS §

On this day, Letty Surman, appeared before me, the undersigned notary public and after I administered an oath to him/her, upon his/her oath, he/she said:

"My name is Letty Surman. I am over the age of 18 and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

I was employed by Halliburton/KBR in Kuwait and Iraq from May of 2004 until September of 2006. I was the Human Resources (HR) supervisor in Kuwait from May of 2004 until late-2005 and in the Baghdad Headquarters in Iraq from late-2005 until my return to the United States in September of 2006. I again worked for Halliburton in Houston from January until August of 2007, when I was laid off.

During most of my time in Kuwait, I was the key contact person for HR issues arising out of Basra, Iraq. This was because there was no HR person in Basra. There was a saying with regard to personnel and employee issues that 'what happened in Basra stayed in Basra.' As an example, Halliburton pushed for an HR representative in every camp, large or small, in Iraq, with the exception of Basra. I often thought this was suspicious.

It was concerning to me that, although I was trained in HR, there were a number of HR personnel that were not trained, and were simply no longer capable of performing their primary duties. For instance, I worked closely with a diesel mechanic who had been relabeled as an HR representative, with absolutely no training. This was a disaster waiting to happen.

I know that Craig Grabien was the project lead in Basra, and that alcohol was widely used at that camp – despite the fact that this was not permitted there. In fact, it was widely known that Craig Grabien's successor, Charles English, was intoxicated the night that Basra was bombed, when he announced the need for firemen to perform a HazMat analysis in a slurred voice from the radio system in the bunker. Two visiting Army officials even complained that Charles English was drunk in the bunker.

During my time as an HR supervisor, I was aware that a lot of sexual harassment went on- it was our major complaint. I observed that sexual harassment was worse when I first arrived, and seemed to get a little better towards the end of my stay in Iraq.



LHS
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I know that the Employee Relations (ER) branch of Halliburton tracked sexual harassment complaints, as this was a primary function of that department. However, I am aware that Halliburton has a policy of sweeping problems under the rug.

I have personally been the subject of sexual harassment while I was in Iraq. There were comments about my breasts shaking when I was doing something in the kitchen facility, and Michael Van Kirk, a project manager, attempting to kiss me – which was unwanted. I did not report these incidents because it would not have accomplished anything, and because of the high likelihood of retaliation that permeated the environment in Iraq. Often, there would be heckling of people who reported incidents of this nature, or they would be sent to another, more remote, camp. Furthermore, the confidential nature of these reports was purely at the discretion of the project managers, and not well enforced.

At one point, there was a company blog, on which any Halliburton employee could anonymously post their complaints about sexual harassment and other camp conditions. Halliburton took this down because it was embarrassing to them.

I know that pornography was known to be displayed in the workspaces in Basra as a result of the reports of the drivers and other employees who would travel through the Kuwait after having been in Basra. Craig Grabien had a reputation for sexually harassing the women in Basra.

In 2005, KBR came out with "supervisor training." This training included topics such as dignity and respect, sexual harassment and other topics. Prior to that, sexual harassment had not really been discussed with managers or supervisors. This training was insufficient, lacking in substance, and thought by many to be a "joke."

I recall the aftermath of the reporting of the Jamie Jones rape incident. I had been friends with the fire chief, Marshall Fiedler, and remember him commenting to me that "I don't know what I'm going to do with these guys." Several of the firefighters were very young, and known to do wild things.

I also recall that a number of people were very angry because the incident involving Jamie caused the rules to change so that drinking was no longer allowed. Prior to that reporting, drinking was allowed in the off-duty hours, and in the non-work spaces.

Part of the problem with managers such as Craig Grabien is that they have family connections in the Halliburton/KBR system. In fact, this "good 'ol boy" network is so rampant that the employees have nicknamed the company: Kinfolk, Brothers &

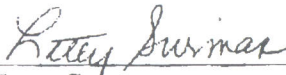

LHS

Relatives (rather than Kellogg, Brown & Root). The entire company is simply rife with nepotism. The same rules do not apply to all Halliburton employees – it simply depends on their connections.

I am very familiar with Halliburton's DRP program, but certainly did not think that a rape or sexual assault would ever be subject to the program. I know that the DRP prides itself on preventing most cases from ever even reaching arbitration. The DRP office is housed in the same headquarters area as KBR, in the same building as the ER offices. I believe this to be a huge conflict of interest. Simply put, I do not think that a person can get justice in the DRP. I personally do not trust the arbitration provisions of KBR, nor do many of the co-workers I know. In fact the practices of Halliburton KBR make it clear that it was there intent to circle the wagons to protect their financial interests, rather than fairly treat their employees.

KBR has utilized the DRP arbitration provision to permit, excuse and/or encourage a sexually lawless environment to exist, and to escape liability and accountability for that environment. It also keeps its findings secretly so that the public does not know about it."

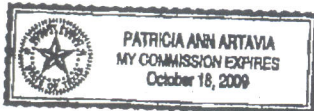
Further affiant sayeth not



Letty Surman

AFFIANT


SWORN TO AND SUBSCRIBED before me on the 10th day of October, 2007






NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

(SEAL)


LHS

 Memorandum Report of Interview	DS Case Number V-	Office Case Number (If applicable) REOBasrah 05-04
	Case Title	
Regarding Interview of MOKHTARE, Ali Reza	Date 25 Jun 2005	Time 1620 hours
	Location Regional Embassy Office Basrah, Iraq	

SUBJECT - MOKHTARE, Ali Reza; 02/28/1958; Ormeieh, Iran; 150-66-8484, was interviewed on 06/25/2005 at Regional Embassy Office Basrah by Reporting Agent (RA) Paul Davies beginning at 1620 hours and concluding at 1712 hours. Only SUBJECT and witness SA Brian Hatheway were present for the interview.

RA initially read and provided SUBJECT the Garrety Warnings at 1520 hours at which point SUBJECT declined to sign, stating HE wanted representation. RA informed SUBJECT that HE was not allowed to have any verbal or physical contact with Mrs. Tracy Barker and concluded the meeting.

At 1613 hours SUBJECT entered RA office space and stated HE changed HIS mind and would now sign the Garrety Warning and answer questions without representation present.

RA and SA Hatheway commenced the interview at 1620 hours after receiving the signed Garrety Warning from SUBJECT. RA reiterated to SUBJECT that HE could refuse to answer questions at any point during the interview. SUBJECT acknowledged that HE understood the procedures.

RA asked SUBJECT if HE had any concerns regarding HIS personal conduct within the last several days that HE wanted to discuss. SUBJECT replied that HE could not think of any issues.

RA asked SUBJECT who HE ate dinner with on the night of 06/23/2005. SUBJECT stated that he ate dinner with Sibby ADAMS, Holly SACO, Adam Gabriel, and Tracy BARKER. SUBJECT further stated that BARKER arrived at the dining facility late and that when others in the group began to depart

Reporting Agent Paul H. Davies	Date 06/25/2005	Distribution DS/ICI/PR
Approving Official (If applicable)	Date	RSO Baghdad

DS Form (April 2000)

Diplomatic Security Service

This memorandum report is the property of the Diplomatic Security Service.
Neither it or its contents may be disclosed to unauthorized persons.

Exhibit A

the table, BARKER asked if anyone would stay with her for dinner. SUBJECT stated that HE offered to remain with BARKER for dinner when the other personnel departed. SUBJECT stated that during dinner HE mentioned to BARKER that HE had a long day and could use some Jack Daniels. SUBJECT further claimed that BARKER agreed to join HIM in his residential accommodations for a drink after dinner.

SUBJECT claimed that the night of 06/23/05 was the first time BARKER ever went to HIS trailer room. SUBJECT clarified that BARKER met with SUBJECT in HIS office on 06/19/05 to discuss problems she experienced with fellow KBR workers. Additionally, SUBJECT stated that he offered advice to BARKER regarding her efforts to pursue full time employment options with the Department of Defense for her and her spouse. SUBJECT displayed two June 20th, 2005 email exchanges with BARKER as evidence of the professional nature of HIS 06/19/2005 meeting. The email included BARKER'S attached resume. SUBJECT claimed HE did not offer BARKER or her husband a job, but provided her various leads to DoD jobs available via the Internet.

SUBJECT claimed the HE walked with BARKER to the main REO office building and said BARKER remained outside while SUBJECT went to his office to retrieve HIS accommodation keys. SUBJECT said HE and BARKER then walked a short distance to HIS trailer.

RA asked SUBJECT where HE sat relative to BARKER in his room. SUBECT drew a diagram of HIS quarters that is divided by a bathroom between the bedroom and a sitting room. SUBJECT indicated that BARKER sat on a sofa in the middle of the sitting room, while HE sat on a separate chair immediately next to her. SUBJECT said that HE spent approximately 45-60 minutes in HIS room with BARKER.

RA asked SUBJECT what happened after they arrived in the trailer. SUBJECT stated that HE poured BARKER a drink of Jack Daniels in a cup and that she mixed it with a Dr. Pepper soft drink. SUBJECT claimed HE initially had one drink of Jack Daniels and coke.

SUBJECT stated that HE and BARKER had some initial job related discussions and the remainder of their conversation was professional. SUBJECT said that BARKER wore a buttoned vest with a white undershirt underneath. HE claimed the vest and the shirt had plunging necklines. SUBJECT further stated that BARKER continually pulled at her vest and shirt, asif to expose her breasts. SUBJECT admitted that he pulled her vest and shirt opened and said to BARKER QUOTE What do you have behind there? END QUOTE. RA asked SUBJECT if HE thought BARKER was interested in an advance or some type of romantic or sexual contact. SUBJECT replied in the negative. Upon further questioning later in the interview on this topic, SUBJECT said QUOTE I admit is was an inappropriate move END QUOTE. HE also said QUOTE I made a mistake and it was stupid END QUOTE.

RA asked SUBJECT how BARKER reacted when HE pulled her shirt and asked what was behind it. SUBJECT claimed BARKER did not react and they continued their conversation. RA asked what other topics they discussed, specifically if HE told BARKER about his travels to Saudi Arabia. SUBJECT claimed HE conveyed several stories about briefings HE received of Saudi misconduct and observations of QUOTE Chop/Chop Square END QUOTE where punishments such as cutting out tongues and chopping off limbs took place. SUBJECT further stated that HE told BARKER a story about a Saudi Prince who allegedly raped a Philipino woman who later committed suicide because no one believed her story.

RA asked SUBJECT how much HE and BARKER drank during the 45-60 minute visit. SUBJECT said that BARKER did not finish her drink during the visit, but took it with her to finish later. SUBJECT claimed HE had two and possibly a third mixed drink of Jack Daniels and coke. RA asked SUBJECT about his drinking habits. SUBJECT said that HE only drinks socially, at the bar. When RA asked why HE had a bottle of Jack Daniels and to quantify how many times per week HE drinks, SUBJECT claimed QUOTE zero END QUOTE. AGENT NOTE: When RA pointed out this discrepancy, SUBJECT became agitated and nervous and said HE was referring to the fact HE does not drink hard liquor straight.

RA asked SUBJECT what prompted BARKER to depart. SUBJECT claimed that BARKER claimed she was tired and ready to leave. RA asked what happened upon BARKER'S departure. SUBJECT said that as BARKER got up to leave he stood and they hugged at which point HE kissed her cheek. SUBJECT further stated that BARKER turned her head towards HIS mouth, giving HIM the impression that she wanted to be kissed. SUBJECT admitted that BARKER put her hand over her mouth and said NO. SUBJECT said HE released the hug at that point and offered to walk her back to her accommodation trailer.

SENSITIVE BUT UNCLASSIFIED



UNITED STATES DEPARTMENT OF STATE
DIPLOMATIC SECURITY SERVICE
REPORT OF INVESTIGATION



TITLE		DS CASE NUMBER	
		01-MC09-062005-248-0213	
TRUE NAME		CASE TYPE	
SSN #		Sexual Assault/Harassment	
FIELD OFFICE	DATE REPORTED	DATES INVESTIGATED	REPORTING AGENT
DS/ICL/PR	12/13/2005	06/23/2005 - 12/13/2005	SA Lynn M. Falanga

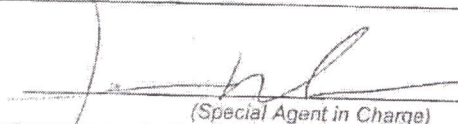
SYNOPSIS

This case was predicated on information received by Paul Davies, RSO Basrah, Iraq, concerning direct hire DOS employee.

On 06/23/2005 KBR contractor Tracy Barker claims that touched her breasts while in HIS living quarters without her consent or invitation. Barker departed post on emergency sick leave and returned to the U.S.

With the interviews conducted by the RSO office and telephonic interviews conducted by DS/PR with Barker, DS/PR presented the case for prosecution at EDVA for violations of 18 USC 2244(b) under 18 USC 7. The case was declined for prosecution.

- CLOSED -

APPROVED	DO NOT WRITE IN THIS SPACE
 (Special Agent in Charge)	
COPIES REFERRED	DATE RECEIVED
1 - DS/ICL/PSS; 1 - DS/ICL/PR Case File	
REVIEWED BY AGENT SUPERVISOR	
MDL (Initials)	12/13/05 (Date)

0219-101
3PO:1251 0-341-526(5545)

SENSITIVE BUT UNCLASSIFIED

Exempt From Automatic Decontrol By Statute
CONTENT MUST NOT BE DISCLOSED TO UNAUTHORIZED PERSONS

OPTIONAL FORM 249
(FORMERLY DS-838)
JULY 1996
DEPT. OF STATE

"Exhibit B"

SENSITIVE BUT UNCLASSIFIED

Investigative History

06/23/2005 Incident.

06/24/2005 Barker reports incident to RSO and gives a sworn statement (Attachment A). DS/PR is telephonically notified. Case 01-MC09-062005-248-0213 is opened.

06/25/2005

10/05/2005

10/06/2005 DS/PR presents the case for prosecution to the EDVA for violations of 18 USC 2244(b) under 18 USC 7. Case was denied for prosecution (Attachment D).

10/14/2005

12/09/2005 Case closed

Pertinent Issues



U.S. Department of Justice

Executive Office for United States Attorneys

Office of the Director

Room 2261, RFK Main Justice Building
950 Pennsylvania Avenue, NW
Washington, DC 20530

(202) 514-2121

March 2, 2007

Stephanie Morris
The Law Office of Stephanie Morris, LLC
1660 L Street, NW - Suite 506
Washington, DC 20036

Re: Complaint No. 07-019

Dear Ms. Morris:

I have received the complaint you filed under the Crime Victims' Rights Act of 2004, on behalf of your client, Tracy Barker, against employees of the United States Department of State and other unidentified United States Attorneys' Offices for declining prosecution. After careful review, I have determined to close your complaint without further action. This office does not have jurisdiction to review complaints brought against employees of the State Department. Your client has not established that she is a federal "crime victim," as required by Department of Justice regulations. 28 CFR § 45.10(a). To file a complaint with this office, you must establish that you are "a person directly and proximately harmed as a result of the commission of a *Federal* [not state] offense, or an offense in the District of Columbia." In addition, the complaint fails to identify any United States Department of Justice employee who may have failed to provide rights to a crime victim under the Crime Victims' Rights Act of 2004. 28 CFR § 45.10(b).

This is a final decision. You may not seek judicial review of this determination regarding your complaint. 28 CFR § 45.10(c)(8).

Sincerely,

Marie A. O'Rourke
Victims' Rights Ombudsman

Exhibit D



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Houston District Office

Mickey Leland Federal Building
1919 Smith Street, 7th Floor
Houston, TX 77002-8049
(713) 209-3320
TTY (713) 209-3439
FAX (713) 209-3381

460-2006-00439

Charge Number

Ms. Tracy Barker
316 Ray St.
Fort Bragg, NC 28307

Charging Party

Kellogg, Brown & Root
4100 Clinton
Houston, TX 77020
Attn: Ms. Celia Balli

Respondent

Determination

Under the authority vested in me, by the Commission's Procedural Regulations, I issue on behalf of the Commission the following determination as to the merits of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended.

All requirements for coverage have been met. On February 3, 2006, Charging Party Tracy Barker filed a charge of discrimination alleging that she was harassed, sexually harassed, and retaliated against by her employer while she was working at a few different locations in Iraq. She also contends that an employee of the U.S. State Department sexually harassed her and attempted to sexually assault her and that the respondent did not adequately handle that complaint.

The Commission's investigation revealed sufficient evidence to establish that Charging Party acted in good faith when she raised complaints of sexual harassment and that respondent's agents impermissibly tried to discourage her from making and pursuing her complaints about their own employees and the State Department employee. The efforts to discourage her from pursuing her complaints constitute retaliatory conduct against her by her employer, Kellogg Brown and Root (KBR). Furthermore, KBR staff empowered to investigate her complaints impermissibly initiated efforts to aid her manager in better documenting her purported performance shortcomings. In so doing, additional retaliation occurred under Title VII of the Civil Rights Act of 1964.

The charging party's sexual harassment complaints primarily concern five junctures, a) her initial treatment by a supervisor; b) the alleged hostile environment sex harassment at that site; c) an alleged pervasive sexually hostile environment in Basra, characterized as the company's allowing access to pornography, visuals of animals copulating, and co-workers engaging in sexual banter and propositioning the charging party; d) an alleged effort on the part of a State Department employee to sexually attack the charging party; and e) her Basra supervisor's inappropriate remarks and solicitation of an affair with her. Her complaint of retaliation includes assertions that she was subjected to additional scrutiny and disparagement because of her initial complaint and her subsequent complaints about improper behavior in Basra. A review of documentation and witness interviews demonstrate a lack of professionalism on the part of the

Exhibit 5

charging party's initial manager, but, as that manager's conduct appeared nearly equally abusive to both male and female subordinates and was not sexual in nature, this investigation does not sustain a charge that that manager sexually harassed the charging party. The evidence does sustain the assertions that respondent retaliated against charging party as a direct result of her good faith complaints against that initial manager, that there was a pervasive sexually hostile environment in the Basra placement and that retaliatory conduct against charging party continued there. There is documentation that respondent's human resources staff actively abetted the mistreatment of the charging party by coalescing in an effort to unfairly claim that charging party's performance warranted severe consequences. At the same time, confronted with clear evidence of the arbitrary mistreatment of subordinates by a manager, that human resources staff appeared to be mute but championed mistreatment of the charging party. Evidence supports the fact that Respondent made plans to discipline Charging Party after her complaint of harassment. Following this incident, evidence indicates that Respondent allowed a sexually hostile environment to exist which was severe and pervasive. The evidence is equivocal regarding whether or not the State Department employee and her Basra supervisor sexually harassed her. As a result of Charging Party reporting a sexual assault Charging Party was again threatened and faced further intimidation from another of Respondent's officials.

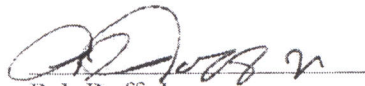
Based on the weight of the evidence, the Commission concludes that the Respondent retaliated against Charging Party by intimidating her following her complaint of harassment by a member of management and attempting to orchestrate her termination. The Commission also concludes that Charging Party was forced to endure a sexually hostile environment in Basra. As the purported misconduct of the State Department employee and her supervisor's claimed sexual improprieties were not witnessed, no other tangible evidence was presented, and other indicia could not be assessed, no dispositive decision as to the occurrence and/or severity of those accusations can be made at this time. Though it has been suggested by respondent that it could not investigate the complaint about a non-employee's alleged sexual misconduct, its efforts to retaliate against the charging party undermine confidence in its other assertions. Finally, the Commission finds that Respondent retaliated against Charging Party following her report of an allegation of sexual assault by threatening Charging Party's employment and ordering her to refrain from elevating her complaint because it might negatively impact her supervisors. Respondent is, therefore, in violation of Title VII of the Civil Rights Act of 1964, as amended.

This determination does not conclude the processing of this charge. The Commission will begin conciliation efforts to resolve all matters where there is reason to believe that a violation has occurred. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. The confidentiality provisions of Title VII apply to information obtained during the conciliation.

If the Respondent declines to discuss settlement or when, for any other reason, a settlement acceptable to the Director of the Houston District Office is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission. A Commission representative will contact each party to begin conciliation.

On Behalf of the Commission:

8/16/2007
Date


R.J. Ruff, Jr.
District Director

Shadow Sloan,
Vincent and Elkins
First City Tower
1001 Fannin St., Suite 2500
Houston, TX 77002-6760

Stephanie M. Morris
1660 L. St, N.W. Ste. 506
Washington, D.C. 20036

List Cases	Case Information	History	Documents	Subjects	Weapons	Credentials	Pouches
Case							
Case Number	01-MC09-062005-248-0213						
Case Name	MOKHTARE, ALI REZA						
Agency	01 US DEPARTMENT OF STATE		Open Date	06/23/2005			
Case Type	MC09 MISCELLANEOUS MISCONDUCT		Close Date				
Field Office	DSICLPR		Reported Date	06/23/2005			
Country	248 IRAQ						
Category of Case	SEXUAL ABUSE/ASSAULT						
Case Agent	FL LYNN FALAIGA						
Other Agents							
Case Summary	Civil service employee had a contractor in his quarters and attempted to may have sexually assaulted her. Statements are included with this file. PR will request his security clearance be suspended. Contractor was so upset she asked for emergency leave.						
<div> ▶ ▶ Add Modify Delete Cancel </div>							
User ID: DTD	User: LYNN FALAIGA	Admin	Branch: 01	Restricted Case Type: MC	View only		

PSS. Declined to suspend.

RSO - Go to Subject's supervisor & inform.

"Exhibit C"